

REMARKS/ARGUMENTS

In response to the Office Action mailed May 13, 2005, Applicants amend their application and request reconsideration. No claims are cancelled in this Amendment and new claim 44 is added so that claims 1, 2, 7-9, 11-15, 17-19, 22-25, 27-33, and 35-44 are now pending. The list of claims pending in the previous Office Action was incorrect both within the Office Action and in the Office Action Summary, the PTOL-326 Form. The foregoing list is correct.

Request for Withdrawal of Finality of Rejection

The Office Action mailed May 13, 2005 purports to be a final rejection authorized pursuant to MPEP 706.07(b). In fact, there is no authorization, in this instance, for making the rejection of this Office Action a final rejection. The claims were amended in response to the previous Office Action, adding new limitations. To some degree, some previously pending claims were merely combined. However, the independent claims presented were new claims in many respects, not merely telescoped versions of claims previously presented. For example, in claim 1, the memory was described as a read-only memory, the production patterns were described as combinations of word designs, each of the production patterns having an associated random number for production pattern determination, etc. Since new independent claims were presented in an attempt to advance the prosecution, it was improper to make the first Office Action a final rejection. Moreover, the Examiner acknowledged that new issues were presented because he cited and applied a new reference, the patent to Fraley, discussed below, in rejecting the new claims. The citation of the new reference proves that Applicants had taken steps to advance the prosecution making the finality of the rejection improper.

In response to informal telephone inquiries and discussions, the Examiner, in a previously undocumented telephone interview, telephoned the undersigned on June 6, 2005 and stated that the finality of the rejection would be withdrawn. For the foregoing reasons, Applicants respectfully request confirmation that the rejection of the Office Action mailed May 13, 2005 is not a final rejection.

Reply to Response to Arguments

In the Office Action, at pages 9 and 10, the Examiner explained his view as to why he refused to give patentable weight to certain limitations added in previous claim amendments. The Examiner took the view that these amendments represented merely aesthetic design choices and Applicants disagreed. This previous response that the alleged “design choice” is insufficient to establish *prima facie* obviousness is maintained. Reliance is specifically still founded upon MPEP sections 2143 and 2143.03. The previous argument is incorporated by reference.

In reply, the Examiner stated that one could not obtain a patent for particular pictures. Rather, according to the Response, it “is a function of the pictures that may be protected by a patent”. Applicants readily agree and point out that the amendments previously made in the claims stress the functions of the production patterns that are described in the patent application. These production patterns may be combinations of word designs and may include other pictorial elements in the course of various scenarios that are part of the game machine, method, and game machine program stored in a recordable medium that are sought to be patented. No claim has ever been or is now directed to a specific picture. Therefore, Applicants again take issue with the Examiner on this point and submit that *prima facie* obviousness has not been established. Further, by the use of scenarios, i.e., story development, in the claimed invention, there is a clear distinction from Ugawa, the principal reference. Ugawa never employs scenarios and the brief announcements that are made by figures, according to the best understanding of Ugawa, are not scenarios. For this additional reason, *prima facie* obviousness has not been established and, without further consideration, the rejections should be withdrawn because Ugawa does not supply the propositions for which it was cited.

Claim Amendments

In this Amendment each of the independent claims is amended in a similar way. The claims, whether directed to a recorded computer program, a method, or a game machine, describe the generation of a plurality of random numbers and the use of these numbers, in conjunction with other features of the game, in determining the scenario that leads the game player through various stages, and, if lucky, to a jackpot, i.e., big hit.

A key feature of the game described in the patent application, and in other such games, is unpredictability of the result. As extensively described in the patent application, the game according to the invention provides various scenarios in which characters meet and exchange words to produce various results that may not give the player a prize, that may shift a game to a special state, sometimes called a reach without any opportunity to win a jackpot, or may provide a jackpot opportunity. In the embodiment of the invention disclosed in the patent application, for example, as shown in Figure 25, eight different events are controlled by random numbers that are generated within the game. Applicants do not rely on the quantity of the random numbers generated as distinguishing from the prior art, but rather do rely on the generation of random numbers and their use in novel ways to add to the degree of variability, and thereby interest, in the scenarios developed through play of the game.

As shown in the table of Figure 25, among the random number counters that are employed in the game are a random counter for determination of a production group, the fourth entry in the table in Figure 25, and a random number counter for production pattern determination, the eighth entry in the table of Figure 25. The use of each of the random numbers listed in that table is described at various locations within the original specification, which is referred to in order to point out that the original disclosure supports this description and the corresponding claim amendments. For example, the use of eight different random numbers and their generation in the embodiment described in the patent application is described in the passages of the original specification, not the substitute specification, from page 30, line 14 through page 31, line 1, page 31, line 18-page 32, line 5, and page 36, lines 14-17. (Reference is made to the original specification to show original disclosure support.)

In the embodiment of the game described in the patent application, the course of the game can follow various paths as shown in the numerous flowcharts that are part of the application. Attention is particularly directed to the right half of the flowchart of Figure 20 which illustrates features of the described embodiment of the invention. The left half of the flow chart of Figure 20 is directed to a demonstration or attractive display, intending to attract a player to a game machine that is currently idle. As shown at that right half of Figure 20, a series of tests are applied to determine whether a jackpot, i.e., big hit, situation is established. If not, a similar test is applied to determine whether a special state, the reach state, has been achieved. No matter which of the three potential results of these tests is obtained, the three flows extend to determination of a production group as shown at steps ST38, ST40, and

ST42. These production groups chosen from groups in the one of production group determination tables selected. A separate table is provided for each of the respective test outcomes, i.e., steps ST38, ST40, and ST42 of Figure 20.

Examples of group determination tables are illustrated in Figure 28 where it can be seen that each of the production group determination tables includes at least one production group. Each production group has a corresponding number or range of numbers. One of those production groups is selected based upon, i.e., that has the number matching a random number generated for production group determination, the first random number of the claims. That random number is the fourth entry in the table of Figure 25. These features, selecting a particular production group determination table, the inclusion in the production group determination tables of production groups with corresponding numbers or ranges of numbers, are described in the original specification from page 33, line 29 through page 34, line 4, page 34, lines 21-25, and page 35, lines 6-10. These passages explain that the production group determination tables are stored in a read-only memory.

As further shown in the flowchart of Figure 24 and described in the original specification at page 37 beginning in line 20, once a production group is determined, a production pattern determination table corresponding to the determined production group is selected. Examples of such production pattern determination tables are shown in each of Figures 31-36 of the patent application. Each production pattern determination table includes multiple production patterns with corresponding numbers. Consultation with Figures 31-36 shows the production patterns of displays and exchanges of words between the characters. When these production patterns are displayed in combination, they make up a scenario leading to the next state or final outcome of the game. The particular production patterns selected depend upon the generation of another random number, the second random number of the claims. That random number is the eighth entry in the table of Figure 25 of the patent application. When this random number is generated, it is matched to numbers associated with the production patterns to determine particular production patterns that produce the production display. The use of random numbers in producing the resulting production display is described in detail in the original specification from page 37, line 20 through page 39, line 6. As with the production group determination tables, the production pattern determination tables are likewise stored in a read-only memory of the game.

As just described, in the invention, there is a hierarchy of elements with respective random number-based selection process that determine the displays, widely expanding the variation of the potential displays, the results, and interest in the game involving the two characters and scenarios. Stated another way, the invention provides a wider array of possibilities producing greater player interest, resulting in greater revenue for the owner of the game. In the invention, the hierarchy consists of the two sets of determination tables, the production group determination tables that are selected based upon initial stages of the game play, and that have a set of numbers for each production group within each table. Upon the selection of a production group, through use of a different random number, selections are made from production pattern determination tables that, in turn, include production pattern entries with their own numbers. Thus, upon the generation of the two different random numbers and the intermediate application to the production group determination tables, production groups, production pattern determination tables, and production patterns, the ultimate production displays are provided.

New claim 44 is derived from original claim 1. Claim 44 is free of any “means for” language that appears in claim 1 and is clearly supported by the same disclosure in the patent application that supports claim 1.

Prior Art Rejections

Of the independent claims, claims 1, 11, 23, 31, and 32 were rejected as unpatentable over Ugawa (JP 9-56896) in view of Fraley (U.S. Patent 4,712,798). This rejection is respectfully traversed as to the rejected independent claims and any and all dependent claims that depend from those independent claims.

Fraley was cited as supporting the Examiner’s assertion that it is notoriously well known to use look-up tables in read-only memories to store game images in gaming machines and to use a random number generator to select the particular image displayed. Applicants agree that Fraley stands for this basic proposition, but is otherwise not particularly relevant to the invention as defined by the claims now pending. Applicants also agree that Ugawa, the principal reference, describes the use of random numbers in determining various displays in a game machine. While the Examiner supplied a computer-generated English language translation of Ugawa from the JPO website, that translation is virtually incomprehensible. To assist in advancing the prosecution, Applicants supply, as an attachment to this Amendment,

an English language translation of six paragraphs of Ugawa. Attention is particularly directed to paragraph [0021]. That passage describes the use in Ugawa of five different random numbers to determine various display elements. In fact, the embodiment of the invention described in the patent application uses five essentially similar random numbers to achieve the same choices and display elements. Those corresponding five random numbers and the elements they determine are entries 1, 2, 5, 6, and 7 of Table 25 of the present patent application. Nothing in the translated paragraph of Ugawa or in other paragraph of Ugawa supplies or suggests the use of further random numbers, as in the invention, or production group determination tables or production pattern determination tables as in the invention.

Further, as explained in the attached translated paragraphs [0034]-[0036] of Ugawa, the indication given to a game player, referred to as a notification, in Ugawa is unchanging. This notification, i.e., referred to as predictive notification, suggesting to the player the course of development of the game, lacks variety. As particularly pointed out in the final paragraph of the three cited paragraphs, and shown in Figures 36(A) and 36(B) of Ugawa, a character merely enters the display carrying a sign telling the game player the state of the path of development of the game. Thus, Ugawa lacks not only the specifics of the invention as defined in the amended claims, but also lacks the advantage of the invention, wide variability of displays resulting from the double layered hierarchy of production groups and production patterns.

In other words, Fraley was not cited nor suggested to disclose any of the elements with regard to the features of the invention emphasized in the amended claims. Ugawa simply does not disclose nor suggest the concept of making the notification provided by the game, in the instance of the invention through a scenario, to be variable and to have largely unpredictable, random results. To be sure, in Ugawa, random numbers are employed in the progress of the game and to determine its outcome. However, the invention, as defined by the claims now presented, does not simply use a larger number of random numbers than are employed by Ugawa. Rather, the invention supplies a different concept, employing a hierarchy of two sets of variables, selected by different random numbers to give a novel character to the game, that is never described nor suggested by Ugawa. Therefore, the claims now presented are clearly patentable over the prior art that has been cited in the prosecution of this patent application.

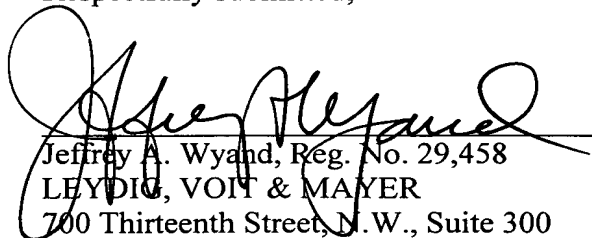
Independent claims 12, 17, 22, 33, 35, 39, and 43 were rejected as unpatentable over Ugawa in view of Fuchs (U.S. Patent 5, 630,753), and further in view of Fraley. This rejection is respectfully traversed as to the rejected independent claims and any and all of their dependent claims.

Essentially, the second rejection is based upon the same reasoning as the first rejection, with the additional citation of Fuchs as disclosing a help-table explaining odds of winning. This table was analogized by the Examiner to the suggestion display of claim 12 and the other rejected claims. Even if such a disclosure is present in Fuchs and if Fuchs suggests some modification of Ugawa and Fraley, the combination still cannot suggest the invention as defined by the amended claims for the same reasons already presented with regard to the first prior art rejection. Accordingly, those comments are incorporated by reference and not repeated.

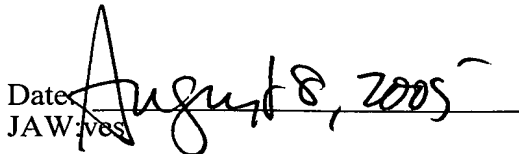
Conclusion

For the foregoing reasons, all claims now pending are patentable over any possible combination of Ugawa, Fraley, and Fuchs so that, upon reconsideration, those claims should be allowed.

Respectfully submitted,


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Date
JAW:ves


August 8, 2005

Amendment or ROA - Regular (Revised 5-19-05)

Partial Translation of JP 9-56896 (Ugawa)

H09-56896

[0003]

Object of the Invention

It is an object of the present invention to provide a pin-ball gaming machine which displays a character on a variable display device and thereby notifies (the player) of a predetermined state such as probability change more easily and predictively.

[0021]

The description will be then given with regard to variable display of the bonus symbol on the bonus variable display device 30, referring into the time charts and the explanatory views on Figs. 6 to 15. The description will be first given to the random numbers for the variable display of the bonus variable display device 30. The variable display device 30 is controlled based on five kinds of random numbers as shown in Fig. 6. The random numbers include WC_RND1 for determining a big hit, WC_RND_L for displaying the left symbol, WC_RND_C for displaying the middle symbol, WC_RND_R for displaying the right symbol, and WC_RND_RCH for "reach" operation. WC_RND1 is comprised of: 305 values with a range of "0 to 304" at Setting 1, 327 values with a range of "0 to 326" at Setting 2, 369 values with a range of "0 to 368" at Setting 3. The random numbers are added one by one per 0.002 seconds. WC_RND_L is comprised of 16 values with a range of "0 to 15." Those values are added one by one per 0.002 seconds and in the rest of interruption processing. WC_RND_C is comprised of 16 values with a range of "0 to 15." Those values are added one by one per 0.002 seconds. WC_RND_R is comprised of 16 values with a range of "0 to 15." Those values are added one by one when the values of WC_RND_L reaching another digit. WC_RND_RCH is comprised of 100 values with a range of "0 to 99." Those values are added one by one per 0.002 seconds and in the rest of interruption processing.

[0034]

Next, the description will be given with regard to the control of notification using a character and the specific character animations, referring into the flow charts and explanatory views on Figs. 26 to 43. Hereinafter, for a simpler explanation, the bonus symbol displays 33a to 33c, divided into three different display portions, are explained in one variable display device 33d. The description will be first given to the predictive notification of stop of the symbols using a character, referring into the flow

chart of Fig. 26. In Fig. 26, the CPU determines whether or not the bonus symbols are variably displayed at S1. If determining that the bonus symbols are variably displayed, the CPU then determines whether or not one symbol prior to the stopping symbol is displayed (on the variable display device 33d) (S2). If determining that the one symbol prior to the stopping symbol is displayed at S2, the notification using a character is activated for the left reel (S3). Likewise, the CPU determines that the one symbol prior to the stopping symbol is displayed on the right reel (S4). If the CPU does, the notification using a character is activated for the right reel (S5). An example of the character animation for the notification at S3 and S5, is shown in Fig. 36(A). Here, the character 71 having a flag 71a is displayed superimposedly on the variable displays 31a to 33c each time. The character animation of Fig. 36(A) is for the "reach" notification, which will be described hereinafter. When introduced for stopping symbol each on the right reel and the left reel, the character 71 illustrates on the flag 71a "left reel stop" and "right reel stop" for each reel. Another example of the character animation may be the character 72 which points out a board 72a, as shown in Fig. 36(B). The character 72 of Fig. 36(B) is for the "reach" notification. When introduced for stopping symbol each on the right reel and the left reel, the character 72 illustrates on the board 72a "left reel stop" and "right reel stop" for each reel.

[0035]

After the notification of the left and right symbols stopping, the CPU determines whether or not it is in "reach" state (S6). If determined "No" at S6, the notification of the middle symbol is executed after the middle symbol on the middle reel stops (S7). An example of the notification of the non-winning is illustrated in Fig. 36(A) and 36(B). Here, the sign of "reach" is changed to "non-winning." If determined "Yes" at S6, predictive notification for "reach" state is executed. The specific process of the predictive notification for "reach" is illustrated in Fig. 27. In the process, the CPU determines whether or not it is a "probability change reach" (S11). If determining "No" at S11, the CPU proceeds and executes the predictive notification for an "ordinary reach" using a character is executed (S12). If determined "Yes" at S11, the predictive notification for the "probability change reach" using a character is executed (S13). After the S12 or S13, the CPU returns to the flow illustrated in Fig. 26. Specific examples of the animation for the notification using a character will be given hereinafter.

[0036]

After the S8, the CPU determines whether or not it is a big hit (S9 in Fig. 26). If determines "Yes," the CPU proceeds to S10 and executes the predictive notification. The specific process is described in Fig. 28. Here, the CPU determines whether or not it is a "probability change big hit" (S21). If determined "No" at S21, the CPU executes the notification using a character for an "ordinary big hit". If determined "Yes" at S21, the CPU executes the notification using a character for the "probability change big hit" (S23). Examples of the notification using a character for the "ordinary big hit" or "probability change big hit" is shown in Figs. 36(A) and 36(B), wherein the ^{signs} ~~signs~~ that the character carries slightly different from those in the notification of winning, as described in [0035]. Namely, the ^{signs} ~~signs~~ that the character carries each show "big hit," "probability change big hit," or the like. Alternatively, one character 73 is superimposedly displayed on the display windows 33a to 33c every time the CPU executes predictive notification for the "ordinary reach/big hit" which is not the "probability change reach/big hit". In this embodiment, one character 73 is displayed for the "ordinary reach" notification and ordinary big hit notification shown in Fig 37(A) when appearing the ordinary symbols. Two characters 73, 74 are displayed for the "probability change reach" notification and for the "probability change big hit" notification shown in Fig 37(B) when appearing the "probability change" symbols. The present invention in this way differentiates the notifications when appearing the ordinary symbols from those when appearing the "probability change" symbols. The notification may be carried out not only by simply displaying the character 73 or 74, but also by scrolling and displaying the character. This configuration may produce clearer graphic effect. The differentiation between the notification for "ordinary reach/big hit" when appearing the ordinary symbols and the notification for "probability change reach/big hit" when appearing the "probability change" symbols, can be carried out by reducing the character 73 (shown in Fig. 39(A)) when appearing the ordinary symbols and by enlarging character 73 (shown in Fig. 39(B)) when appearing the "probability change" symbols.

[0037]

As mentioned in the above, the present embodiment allows the character notification to predictively display and notify the stop of symbols, "reach," and big hit.